

APPROVED
BOARD OF DENTISTRY

MINUTES
FORMAL HEARING

TIME AND PLACE: A meeting of the Virginia Board of Dentistry convened on September 6, 2007, at 9:10 a.m., at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Richmond, Virginia.

PRESIDING: Paul N. Zimmet, D.D.S.

MEMBERS PRESENT: Myra Howard
Jeffrey Levin, D.D.S.
Jacqueline Pace, R.D.H.
Darryl J. Pirok, D.D.S.
Edward P. Snyder, D.D.S.
James D. Watkins, D.D.S.

MEMBERS ABSENT: Misty Sissom, R.D.H.

MEMBERS EXCUSED: Meera A. Gokli, D.D.S.
Glenn A. Young, D.D.S.

STAFF PRESENT: Sandra K. Reen, Executive Director
Cheri Emma-Leigh, Operations Manager
Leigh C. Kiczales, Adjudication Specialist

COUNSEL PRESENT: Howard Casway, Senior Assistant Attorney General

OTHERS PRESENT: William Clay Garrett, Assistant Attorney General
Andrea Pegram, Court Reporter, Crane-Snead and Associates

QUORUM: With seven members present, a quorum was established.

KATHRYN A. BIERY, D.D.S.
Case Nos. 102009, 103192, and 104672

Kathryn A. Biery, D.D.S., appeared with counsel, Gerald C. Canaan, II, Esquire, to discuss allegations that she may have violated laws and regulations governing the practice of dentistry, in that:

1. On or about January 28, 2005, she failed to perform a complete pre-operative assessment and systems review of Patient A, a three and one-half (3½) year old

female, prior to administering Versed, Vistaril and Ketamine. The amount of Vistaril administered exceeded written dosage guidelines for a patient of this age and weight. Further, she failed to recognize that Patient A may have suffered from upper respiratory congestion, which made her more susceptible to developing laryngospasm during sedation and anesthesia. In addition, Dr. Biery chose to administer Ketamine, a drug that has the potential of causing laryngospasm due to the increased production of oral secretions. Following sedation, Patient A experienced two (2) laryngospasms necessitating intubation and transport to the University of Virginia Hospital for emergency treatment.

2. Dental records for Patient A do not reflect a comprehensive pre-operative assessment to include a systems review and criteria for administering anesthesia, vitals signs, an adequate description of the procedure performed, or a listing of the quantity of drugs administered.
3. On or about January 28, 2005, she permitted Dental Assistant D to administer nitrous oxide to Patient A.
4. On or about April 15, 2005, during the course of treatment of Patient B, she failed to adequately document a pre-operative diagnosis and the procedure to be performed.
5. On or about April 15, 2005, during the course of treatment of Patient B, she failed to document the person administering the anesthesia, the patient's blood pressure reading, and pulse.
6. On or about April 15, 2005, during the course of treatment of patient B, she failed to properly chart the treatment rendered by charting in the anesthesia record a left buccal injection, while the "master" patient record indicated a right buccal injection.
7. On or about April 15, 2005, she failed to have a treatment team of three (3) people during the administration of deep sedation/general anesthesia to Patient B, as required.
8. On or about July 14, 2005, she billed \$1,000 to a CareCredit account in the name of Patient C's father for a dental procedure that had not yet been performed

on Patient C. The billing was done despite the fact that insurance preauthorization was required. Further, the patient had never scheduled a follow-up appointment for any of the proposed treatments to be performed.

The Board admitted into evidence Commonwealth's exhibits 1 through 5.

The Board admitted into evidence Respondent's exhibits A through K.

Mr. Canaan renewed his objections to portions of the Commonwealth's exhibits for the record.

Dr. Biery testified on her own behalf. Testifying on behalf of Dr. Biery were Christopher Maestrello, D.D.S., Sharon Boothe, C.R.N.A., Tonya Burns, and Denise Perrotta, R.N.

Testifying on behalf of the Commonwealth were Ron Houser, Senior Investigator, Karen Purcell, R.N., Jeffrey Swingholm, C.R.N.A., Emily Waybright, Stephanie McClung, Jessica Matthews, Matthew Cooke, D.D.S., Christopher Jeffries, and Aleasha Jeffries.

Closed Meeting:

Prior to convening in closed session, Dr. Zimmet announced that the Board would adjourn following the closed session and reconvene the hearing on September 7, 2007.

Dr. Snyder moved that the Board convene a closed meeting pursuant to § 2.2-3711(A)(28) of the Code of Virginia to deliberate for the purpose of reaching a decision in the matter of Kathryn Biery, D.D.S. Additionally, Dr. Snyder moved that Board Counsel, Howard Casway, attend the closed meeting because his presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. The motion was seconded and passed.

Adjourned:

After deliberating in the matter of Kathryn Biery, D.D.S., the Board adjourned for the evening at 11:20 p.m. The Board will reconvene on Friday, September 7, 2007, at 10:00 a.m. in open session.

**Virginia Board of Dentistry
Formal Hearing
September 6, 2007**

4

Paul N. Zimmet, D.D.S., Chair

Sandra K. Reen, Executive Director

Date

Date